IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 27.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.255 of 2006

Sekar @ Chandrasekar @
Chinna Kanagu ... Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai,
O/o The Commissioner of Police,
Egmore, Madras-600 008

2.The Secretary to Government
Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-9. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the detention order of Sekar @ Chandrasekar @ Chinna Kanagu, son of Raji, presently lodged in Central Prison, Madras in Memo No.457/BDFGISV/2005 dated 13.09.2005 passed by the respondents, set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.Danial Mary
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Sekar @ Chandrasekar @ Chinna Kanagu, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the

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impugned detention order dated 13.09.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that the arrest of the detenu was not intimated to any one in his family. For this, learned Additional Public Prosecutor has brought to our notice that the detenu's wife by name Shanthi was intimated about his arrest on the same day. Page 137 of the paper book supplied to the detenu supports the stand of the learned Additional Public Prosecutor. Accordingly, we reject the first contention.

4. The learned counsel appearing for the petitioner, by drawing our attention to the remand order dated 29.08.2005, contended that the detenu was beaten up by the police at the time of his arrest and though the same was duly noted by the learned XVII Metropolitan Magistrate, Saidapet, Chennai, the said aspect was not considered by the detaining authority. With regard to the same, the learned Additional Public Prosecutor pointed out that the detaining authority has considered the said aspect, which is evident from paragraph 3 of the grounds of detention. At the end of the said paragraph, the detaining authority has stated that he has gone through the remand order dated 29.08.2005 issued by the XVII Metropolitan Magistrate, Saidapet, Chennai- 600 015 and also noted the statement of the detenu that he was beaten by the police on his hand. The detaining authority has also noted that the learned Magistrate did not record the presence of any injury on the hand of the detenu and remanded him to judicial custody till 12.09.2005. The detaining authority has also stated that a perusal of records revealed that the detenu was arrested only on 28.08.2005 at 20.00 hours at Reddy Kuppam Road and Govindan Road junction and he was not beaten by the police and no injury was noted by the learned Magistrate also. A perusal of the details given in paragraph 2 of the order shows that the detaining authority was aware of the claim made by the detenu and after verifying the records and finding that the learned Magistrate has not noted any injury as claimed by the detenu, merely remanded him to judicial custody till 12.09.2005. We are satisfied that the detaining authority has considered all the relevant aspects, including the allegation made by the accused/detenu and reject the second contention also.

5. The learned counsel appearing for the petitioner has submitted that the sponsoring authority has foisted the ground case, which said to have taken place on 28.08.2005 and according to her, the detention is not warranted. In the light of the submission, we have verified the details available in the grounds of detention. It shows that the detenu was involved in four cases for various offences. It further shows that the first two cases ended in

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conviction and his remand period was set off and the other two cases are at the investigation stage. If we consider all the four adverse cases and the ground case, it cannot be claimed that the detaining authority was not possessed of the relevant material for passing the impugned order of detention. We are satisfied that the detaining authority, after taking note of the adverse cases, the past conduct of the detenu and the ground occurrence and after satisfying himself that the presence of the detenu will be prejudicial to the maintenance of public order, passed the impugned order of detention. Accordingly, we reject the said contention also.

6. Finally, the learned counsel for the petitioner has submitted that in view of the fact that the detenu has not moved any bail application, particularly on the date of passing of the detention order, the detaining authority had arrived at a conclusion that there is imminent possibility of the detenu coming out on bail. It is not in dispute that there is no bar in filing the bail application at any time. In such circumstances, taking note of the fact that if the detenu files a bail petition and if bail is granted by the Sessions Court or High Court and if he comes out on bail, it will be prejudicial to the maintenance of public order, the detaining authority, after satisfying himself, passed the detention order. The said conclusion cannot also be faulted with.

7. In the light of what is stated above, we do not find any valid ground for interference. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The Commissioner of Police, Greater Chennai, Egmore, Chennai-8.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

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